



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-80,879-01

EX PARTE JOEY RAY CARABAJAL, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 13-0374-K368 IN THE 368TH DISTRICT COURT
FROM WILLIAMSON COUNTY**

Per curiam.

O P I N I O N

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant pleaded guilty and was convicted of possession of a controlled substance and sentenced to two years' imprisonment. He did not appeal his conviction.

After Applicant pleaded guilty and was sentenced, a lab report from the Department of Public Safety revealed that the substance Applicant possessed contained no controlled substances. Applicant alleges that the lab report shows that he is actually innocent of possession of a controlled

substance.

The trial court determined that the lab report shows that the “thick purple liquid” Applicant possessed contained no controlled substances. The trial court concluded that Applicant established by clear and convincing evidence that no reasonable trier of fact would have convicted him in light of the new evidence, which demonstrates that he is actually innocent. The trial court recommends granting relief and the State does not oppose granting relief. Applicant is entitled to relief.

Relief is granted. The judgment in Cause No. 13-0374-K368 in the 368th Judicial District Court of Williamson County is set aside, and Applicant is remanded to the Williamson County Sheriff to answer the charge against him. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and Pardons and Paroles Division.

Delivered: February 26, 2014

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